

O

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10

11 UNITED STATES OF AMERICA, ) Case No. 2:04-cr-01189-CAS  
12 )  
13 Plaintiff, )  
14 v. ) **ORDER**  
15 GABRIEL GONZALEZ, )  
16 )  
17 Defendant. )  
18 )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )  
26 )  
27 )  
28 )

18 The Court is in receipt of defendant's miscellaneous motions. Dkts. 207, 208, 209,  
19 and 210. Having considered defendant's requests, the Court orders as follows:

- 20 1. Defendant requests a 30-day extension to file a reply brief in support of his  
21 pending motion for compassionate release or, in the alternative, home  
22 confinement. Dkt. 208. The Court **GRANTS** defendant's request. Defendant  
23 **SHALL** file his reply brief no later than **July 23, 2020**.  
24 2. Defendant requests that the government serve him with a declaration that the  
25 government references in—but does not attach to—the government's  
26 opposition to defendant's motion. Dkt. 209. Specifically, the government's  
27 opposition refers to the declaration of Associate Warden Dr. Tanisha Hall,  
28

1 which the government filed in a different case. The Court **GRANTS**  
 2 defendant's request. On or before **July 2, 2020**, the government **SHALL**  
 3 produce the Hall declaration to the Court, and the government **SHALL** serve  
 4 the declaration on defendant.

- 5 3. Defendant avers that, in light of the COVID-19 pandemic, the Bureau of  
 6 Prisons ("BOP") notified defendant that inmates at FCI Forrest City would  
 7 "no longer be allowed to use the prison typewriter or otherwise access the  
 8 legal materials available because we pose a health risk to others by potentially  
 9 spreading the coronavirus." Dkt. 207. Accordingly, defendant seeks an order  
 10 requiring "the prison at FCI Forrest City, Arkansas to give [defendant] access  
 11 to basic legal materials[.]" *Id.* However, "[t]he Court does not interfere with  
 12 day-to-day prison operations[.]" *Lynn v. Lundry*, No. 20-3116-EFM, 2020  
 13 WL 3270547, at \*3 (D. Kan. June 17, 2020). Accordingly, the Court **DENIES**  
 14 defendant's request for injunctive relief.<sup>1</sup>

---

15  
 16 <sup>1</sup> The Court reminds defendant that the Court may grant compassionate release when  
 17 three requirements are met: "First, . . . the statute requires defendants to exhaust  
 18 administrative remedies. Second, [the Court] may grant compassionate release only if  
 19 'extraordinary and compelling reasons warrant such a reduction' and 'that such reduction  
 20 is consistent with applicable policy statements issued by the Sentencing Commission.'  
 21 Third, [the Court] must also consider 'the factors set forth in Section 3553(a) to the extent  
 22 they are applicable.'" *United States v. Rodriguez*, 424 F. Supp. 3d 674, 680 (N.D. Cal.  
 23 2019). Courts have determined that "extraordinary and compelling" reasons for  
 24 compassionate release exist "when the prisoner suffers from preexisting health conditions  
 25 that might make a COVID-19 infection more lethal." *United States v. O'Neil*, No. 3:11-  
 26 cr-00017, 2020 WL 2892236, at \*6 (S.D. Iowa June 2, 2020). "However, . . . 'extraordinary  
 27 and compelling' circumstances are [not] established by the mere elevated risk of  
 28 contracting a pandemic virus in prison, even if such a higher risk exists." *United States v.*  
*Van Cleave*, No. 03-cr-247-RSL, 2020 WL 2800769, at \*6 (W.D. Wash. May 29, 2020).  
 In addition, prior to granting compassionate release, and "[e]ven where extraordinary and  
 compelling reasons exist," the Court "must consider whether the defendant is 'a danger to  
 the safety of any other person or to the community[.]'" *United States v. Mondaca*, No. 89-  
 cr-00655-DMS, 2020 WL 1029024, at \*3 (S.D. Cal. Mar. 3, 2020).

1           4. Defendant also requests an order requiring the BOP or the Centers for Disease  
2           Control and Prevention “to disclose to him the purpose(s), focus, method(s),  
3           scope and result of any and all research studies completed by the CDC at FCI  
4           Forrest City . . . into the Covid-19 pandemic at the prison.” Dkt. 210. At this  
5           juncture, defendant has not articulated a compelling basis for this overly broad  
6           discovery request. Accordingly, the Court **DENIES** defendant’s “disclosure”  
7           request **without prejudice**. See Calderon v. U.S. Dist. Court for the N. Dist.  
8           of California, 98 F.3d 1102, 1106 (9th Cir. 1996) (“courts should not allow  
9           prisoners to use federal discovery for fishing expeditions to investigate mere  
10          speculation.”).

11          **IT IS SO ORDERED.**

12  
13       DATED: June 22, 2020



—  
14  
15                       CHRISTINA A. SNYDER  
16                       UNITED STATES DISTRICT JUDGE  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28